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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,154	10/29/2003	Judy-Lynne Alley	3961P2596	6586
23504	7590	03/07/2005	EXAMINER	
WEISS & MOY PC 4204 NORTH BROWN AVENUE SCOTTSDALE, AZ 85251			HOEY, ALISSA L	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/696,154

**Applicant(s)**

ALLEY, JUDY-LYNNE

**Examiner**

Alissa L. Hoey

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-11 and 13-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Election/Restrictions***

1. This application contains claims directed to the following patentably distinct species of the claimed invention: a hand and foot covering portion.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1 and 10 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over

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the prior art, the evidence or admission may be used in a rejection under 35

U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Craig Wess on 03/01/05 a provisional election was made without traverse to prosecute the invention of the hand covering, claims 2 and 11. Affirmation of this election must be made by applicant in replying to this Office action. Claims 3 and 12 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Specification***

3. The disclosure is objected to because of the following informalities: should all instances of "low coefficient of friction" read "high coefficient of friction"?

Appropriate correction is required.

### ***Claim Objections***

4. Claims 1, 4, 6, 7, 13, 15 and 16 are objected to because of the following informalities: should "low coefficient of friction" read "high coefficient of friction"?

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4, 6-11, 13 and 15-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Aarons (US 6,766,536).

In regard to claim 1, Aarons teaches a slip-resistant extremity covering (12, 14) for a person practicing yoga (figures 11-13). The extremity covering dimensioned to fit snugly around an extremity of a person and having a palmer surface (12) and a dorsal surface (14) (column 4, lines 31-41). The extremity covering being constructed of a sufficiently malleable material so as to allow an extremity a full range of movement (column 4, lines 42-45). A slip-resistant material coupled to at least one of the palmer surface (22) and the dorsal surface (22). The slip-resistant material (22) having a high coefficient of friction while at the same time allowing the extremity a full range of movement while inside the extremity covering (column 4, lines 55-56).

In regard to claim 2, Aarons teaches the extremity covering being dimensioned to fit snugly around a hand of a person (figures 11-13).

In regard to claim 4, Aarons teaches the slip-resistant material comprising a plurality of raised surfaces having a high coefficient of friction (figure 4).

In regard to claim 6, Aarons teaches the slip-resistant material comprising an electrometric material having a high coefficient of friction (column 4, lines 55-56).

In regard to claim 7, Aarons teaches the slip-resistant material comprising a uniform surface having a height coefficient of friction (column 5, lines 22-24).

In regard to claim 8, Aarons teaches the extremity covering being comprised of a breathable cotton-lycra type fabric (column 4, lines 42-45).

In regard to claim 9, Aarons teaches the extremity covering comprising an absorbent material dimensioned to absorb perspiration 9column 4, lines 42-45).

In regard to claim 10, Aarons teaches a method for practicing yoga comprising the step of providing an extremity covering dimensioned to fit snugly around an extremity of a person (column 4, lines 32-41). The extremity covering having a palmer surface (12) and a dorsal surface (14). Providing a slip-resistant material (22) coupled to at least one of the palmer surface and the dorsal surface. Inserting an extremity of a person into the extremity covering and practicing a yoga technique (column 7, lines 15-34).

In regard to claim 11, Aarons teaches the step of inserting a hand into the extremity covering and the covering being dimensioned to fit snugly around a hand of a person (figures 11-13).

In regard to claim 13, Aarons teaches the slip-resistant material comprising a plurality of raised surfaces having a high coefficient of friction (figures 3A-7).

In regard to claim 15, Aarons teaches the slip-resistant material comprising an electrometric material having a high coefficient of friction (column 4, lines 56-57).

In regard to claim 16, Aarons teaches the slip-resistant material comprising a uniform surface having a high coefficient of friction (column 5, lines 23-25).

In regard to claim 17, Aarons teaches the extremity covering being comprised of a breathable cotton-lycra type fabric (column 4, lines 42-45).

In regard to claim 18, Aarons teaches the extremity covering comprising an absorbent material dimensioned to absorb perspiration (column 4, lines 42-45).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aarons.

In regard to claim 5 and 14, Aarons fails to teach the plurality of raised surfaces being substantially dumbbell shaped. However, Aarons teaches that the raised non-slip surfaces can be any of a variety of suitable shapes.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have provided the raised surfaces being dumbbell shaped because Applicant has not disclosed that the raised surfaces being dumbbell shaped provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicants invention to perform equally well with the raised surfaces being dumbbell, hemispherical or cylindrical in shape because as long as the raised surfaces are non-slip and provide traction to the covering the shape is not critical as supported in Applicant's specification on page 8, lines 1-6. Therefore, it would have been an obvious matter of design choice to modify Aarons to obtain the invention as specified in claims 5 and 14.

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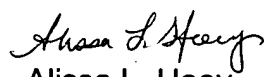
**Conclusion**

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Maranville, Olmsted, Kupperman, Hinton, Petrey, Snyder, Drescher, Schulkin, Widdemer, Hayes, Landis, Malpee, Hochmuth, Lakusiewicz, Kang, Barkin, Chiaruttini, Kobayashi, Kwon, Hiraoka, Stagnitta, Boersema, Albert, Sajovic, Kato and Cass are all cited to show closely related garments.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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